IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

Crl.MC.No. 2359 of 2007()

CC.1719/2004 of JUDL.MAGISTRATE OF FIRST CLASS-I, ERNAKULAM

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PETITIONER:

SHIBU CHERIYAN,S/O.CHERIYAN,
KATTAYIL HOUSE,ERUVELIKARA,
KANAYANNUR VILLAGE,ERNAKULAM DISTRICT.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK

RESPONDENTS:

STATE OF KERALA,
RPRESENTING SUB INSPECTOR OF POLICE,
MULAMTHURUTHI POLICE STATION,ERNAKULAM,
REP.BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.2359 Of 2007

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Dated this the 1st day of August, 2007

ORDER

The petitioner is the 1st accused in a prosecution for the offences punishable under Sections 448, 427 and 506 IPC. Cognizance has been taken on the basis of a final report. The petitioner has appeared before the learned Magistrate. The prayer is to quash the charge/ final report. Charges have not been framed. Having heard the learned counsel for the petitioner and having considered all the relevant inputs, I am of the opinion that this is a proper case where the petitioner must appear before the learned Magistrate and seek discharge at the stage of Sec.239/240 Cr.P.C. The mere fact that there is a possibility of discharge/acquittal will not justify or persuade this Court to invoke the powers under Section 482 Cr.P.C. Persons who face indictment must ordinarily appear before the learned Magistrate and follow procedure prescribed in the Code for premature termination of the proceedings.

2. This petition is in these circumstances dismissed with the observation that the petitioner shall be at liberty to claim discharge

before the learned Magistrate at the stage of Sec.239/240 Cr.P.C. The learned Magistrate must consider such plea on merits and pass appropriate orders, on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE